

LAKE COUNTY BOARD of ADJUSTMENT
May 12, 2010
Meeting Minutes

MEMBERS PRESENT: Sue Laverty, Mike Marchetti, Tim McGinnis, Paul Grinde

STAFF PRESENT: Joel Nelson, LaDana Hintz, Lita Fonda

Mike Marchetti called the meeting to order at 4:00 pm

Motion made by Sue Laverty, and seconded by Paul Grinde, to approve the April 14, 2010 meeting minutes. Vote unanimous to approve minutes.

MYERS CONDITIONAL USE—MASUMOLA

Joel Nelson presented the staff report. (See attachments to minutes in the May '10 meeting file for staff report.) He explained he received a call today from a neighbor with setback concerns. Setbacks are measured from the roof eaves to the property lines. The neighbor thought the setback was 27.5'. Joel visited the site today. He could not find the exact property line location. He passed around pictures that he took of the structure. (See attachments to minutes in the May '10 meeting file for pictures.) He estimated its size was approximately 22' x 19' rather than 16' x 16'. He suggested that the Board might want to revise condition #5 to reflect a larger size than 16' x 16'.

Mike asked if the cabin would still be an appropriate size. Joel replied there were no limitations on guest house size in that zoning district.

Sue L checked that the zoning district had a 20' property line setback but the CC&R's had a 30' setback. Joel affirmed. Sue L asked if the use of the guest house would be that from Environmental Health, so they wouldn't have a kitchen or laundry facility. Joel said it wasn't conditioned to comply with that, but that they need to demonstrate compliance with the Environmental Health Dept. It might be conceivable that they could go through a rewrite process or some DEQ or Environmental Health process to allow for a second dwelling unit.

Larry Myers introduced himself and offered to answer questions. Mike asked if Larry would make sure when the setback was done, the eaves would be part of the calculation. Larry said he read in the zoning that the setback was 20'. He guessed that he'd be about 30' back when he drew up the proposal. He was unaware of the other. Tim thought they were talking covenants as opposed to zoning. Larry agreed. He also didn't know it was the roofline rather than the actual building side. He measured the building sides, not the roof, to get the 16' x 16'. Mike explained the Board didn't have jurisdiction over the covenants; they dealt with zoning. He thought Larry needed to avoid covenant entanglements by making sure he was 30' away. Tim said rooflines were pretty standard for measuring the size of buildings.

Larry added he would like to put a small porch on the building. Board members asked if he would need to come back, or if he could do that. Joel said he was fine as far as impervious surface coverage. Staff would need site plans that showed the porch. It's an expansion of a guest house, but not of the guest quarters, so he thought Larry could probably do a small expansion. Sue L suggested adding it as a condition. Larry asked if a washer/dryer was absolutely out. Joel thought Larry would have to go through the rewrite process. Larry would want to talk to the Environmental Health Dept about that. Sue L said that became less and less of a guest house and more of independent living quarters.

Public comment opened:

Gene Johnson: He lived across the road. He supported what Larry was doing. He thought it was a good project. He wondered when Masumola Zoning came up again for revision.

Joel N: He thought it was last slated in 2005. At that time, the general consensus seemed to be that most people were fairly happy with the existing regulations. He suggested Gene contact Sue Shannon, the Planning Director.

Public comment closed.

Paul asked about an additional condition for the porch. Sue L thought it might fit in condition #5. She suggested changing the dimensions to something more appropriate than the 16' x 16', and adding 'or decking' in the third sentence of #5 after 'providing additional living area'. She thought this would prohibit it unless the Planning staff review it. Joel said it was written with allowance for the staff to use discretion as to whether a deck would need to come back to the Board.

Motion by Sue Lavery to add 'or decking' to #5 (so that section would read 'to add living area or decking is prohibited without further review and approval...), and to adjust the 16' x 16' to a more appropriate number.

Joel suggested overestimating, and saying something like less than 24' x 20', that includes roof eaves, and maybe say something about the deck. Larry thought the porch would just be large enough for a barbeque. He guessed 8' x 10'.

Motion seconded by Tim McGinnis. Motion carried, all in favor.

Lita asked for clarification on the 16' x 16'. Sue L said this was 24' x 20'. For the decking, it would be 100 square feet or less without further review.

Motion made by Mike Marchetti, and seconded by Tim McGinnis, to approve the conditional use as written, including conditions and findings of fact. Motion carried, all in favor.

VICTOR DENSITY VARIANCE

Joel Nelson presented the staff report. (See attachments to minutes in the May '10 meeting file for staff report.) He noted that on pg. 17, the wording of 'Conditions 1-3' should read 'Conditions 1-4'.

Tim asked when the density map was adopted. Joel replied October 1, 2005. Tim asked when the property was purchased. Joel thought this was in late 2007. Tim checked that these 3 were all on the tax rolls but were not in the legal descriptions of the properties. Joel explained this was like what happened with a mobile home unit, where they were tied to the geocode but may not be picked up on a legal description, like on a deed. He suggested the applicant might be able to explain that further. Tim checked this was a variance from density per the information given on pg. 9, #5. He confirmed for Joel that he was asking about specific language. He thought this was a different kind of variance. Joel said it didn't say it wasn't subject to the same variance criteria. He thought the language was identifying circumstances that were anticipated. Tim verified with Joel that the variance still had to meet all the conditions that they usually look at for granting a variance.

Teresa Victor introduced herself and was available for questions on the application. Tim verified with her that they purchased the property in 2007. Tim asked if when they took title, the other two units weren't on the legal description. She verified this. They paid taxes on them; they were listed as personal property, so they're attached to the land, but whenever it comes to a deed, you wouldn't see mobile homes on there unless they've been attached. Tim asked if they were attached to the land on a permanent foundation, if they were on the deed. Teresa said not necessarily—you had to request that they be attached to the deed before that would happen. She said she used to work at the assessors office.

Public comment opened: None offered. Public comment closed.

Mike has no problem with the variance. He wanted to understand condition #5 alternatives with the guest houses. He asked Teresa if they applicants had a preference. Teresa said it didn't matter at this point. Sue L said she preferred option B, and limiting the new structure not to have laundry or kitchen facilities, with that written in there, so it would be more like a bunkhouse. Mike thought it just had to meet the guest house criteria. Sue L had no problem with the existing guest house and buildings that were already there, or subdividing those into three parcels. She didn't feel another building should be added to the third lot. She thought the structure currently being built should be limited to be more of a guest house or very dependent upon the primary structure. Their letter indicated financial reasons for wanting to do this, and she would like to limit future financial renting, period, on any guest house. She liked option B with added verbiage that no laundry or kitchen facility may be in the new guest house on lot one. She was okay with what currently existed on lots 2 and 3. Paul checked with Sue L that lot 1 had a partial building built upon it. Tim was fine with the 'not to exceed 30 days'. It didn't matter to him about the laundry or kitchen. Paul was fine with the guest house definition from the County.

Motion made by Sue Lavery to add the verbiage that no laundry or kitchen facility may be in the new guest house on lot one. Motion died for lack of second.

Motion made by Mike Marchetti, and seconded by Paul Grinde, to approve the request with condition #5B approved and not #5A, using the language as written, and adopting the facts of findings in the staff report. Motion carried, 3 in favor (Tim McGinnis, Mike Marchetti, Paul Grinde) and 1 opposed (Sue Lavery).

MORELLI VARIANCE—EAST SHORE

LaDana Hintz presented the staff report. (See attachments to minutes in the May '10 meeting file for staff report.) She suggested the Board might want to consider changing the wording of condition #3 so the end of the condition reads 'at least 14-feet to the north of the southern property boundary.'

Jack Morelli spoke on behalf of his application. He had lots of equipment outside rusting and he wanted to save it by getting it inside. He had no issues with the staff recommendations. Paul asked him if the neighbor to the south had no problem. Jack said no; in fact the neighbor had his buildings on Jack's property.

Public comment opened:

Unidentified man: He asked what kind of cars the applicant had.

Jack M: He listed some cars.

Public comment closed:

Motion made by Tim McGinnis, and seconded by Paul Grinde, to grant the variance, adopt the findings of fact as proposed by the Planning Dept, and imposed the conditions proposed by the Planning Dept, with an amendment to condition #3 that will say 'discharged at least 14-feet to the north of the southern property boundary.' Motion carried, all in favor.

BURNINGHAM VARIANCE—CITY COUNTY

LaDana Hintz presented the staff report. (See attachments to minutes in the May '10 meeting file for staff report.)

Mike checked that if this was approved, the applicants might want to act quickly given the annexation potential. Tim thought if the City wholly surrounded a property, the City could annex without asking the owner, without right to protest by the owner. LaDana wasn't sure they were totally surrounded. Tim thought the applicants might want to look into that, just so they knew.

Steve Burningham asked about a condition on pg. 13, where the Environmental Health Dept had to approve of this before the Planning Dept. He was concerned because

Environmental Health told him he needed the Planning approval first. LaDana, Sue L and Mike explained that this Board approval was the first step. Prior to the issuance of the zoning conformance permit, Planning needed Environmental Health approval to issue that. The applicant needed approval from the Board for the variance to get the approval from the Environmental Health. Before the zoning conformance permit could be issued, he needed the Environmental Health permit.

Public comment opened: None offered. *Public comment closed.*

Motion made by Sue Lavery, and seconded by Tim McGinnis, to approve the variance with conditions, findings of fact and staff recommendations. Motion carried, all in favor.

NEW MOUNTAIN HEIGHTS II CONDITIONAL USE: POSTPONED

OTHER BUSINESS

Lita mentioned there were items for the June meeting.

Joel checked that the New Mountain Heights II item was announced as postponed until next month.

Motion made by Mike Marchetti to adjourn, and Sue Lavery seconded. Motion carried by general consent. Meeting adjourned at 5:15 pm.